carrier per market without previously required showing of need). In rural areas, it only makes sense to allow users to operate on a clear channel that may otherwise lay fallow for years. And in urban areas, channels will quickly fill up in any event. Thus, full spectrum assignment, as authorized in the current Part 90 frequency coordination rules, represents the better policy choice.

Possibly the most immediate effect of proposed Part 88 rules would be an increase of congestion on shared use channels. Any new licensees would automatically be "stacked" on to existing operations, quickly making the frequency more crowded. And the new scheme would increase the chances that a licensee will be forced to co-exist with one or more incompatible users. Thus, contrary to the stated purpose of refarming - to relieve congestion - this proposal actually would increase congestion. The Commission should not adopt a proposal with such an anomalous result.

The Commission should either eliminate or modify proposed vertical stacking instructions. A more moderate policy still preserving channels for exclusivity, would set aside for future exclusive licensing a specified number or percentage of clear channels in an area, and provide for horizontal coordination on the remaining channels. Yet another less drastic alternative would be to allow the licensing of a user on the last clear frequency only if that user is willing to accept its license with the understanding that it can be

required to migrate to another shared channel by a later filed applicant justifying exclusivity. The parties could share in the cost of this migration. These approaches would promote exclusivity, while ameliorating (especially in rural areas) Commission warehousing of frequencies, with resultant over-crowding on a few active channels.

VI. THE COMMISSION SHOULD IMPLEMENT EXCLUSIVITY CRITERIA MORE ACCURATELY REFLECTING LICENSEE OPERATIONS

The Commission's proposal to eliminate or sharply curtail

to be skewed, since the groups usually showing the highest

count as a basis for awarding a Finder's Preference Request to the challenger. Report and Order, 6 FCC Rcd. 7297, 7305 (1991) (Finder's Preference). Thus, private enforcement of mobile loading reports has been precluded. Moreover, Commission enforcement of mobile loading counts is non-existent, since the Field Office Bureau is well known to lack necessary resources. Finally, the Commission discontinued an important mechanism for monitoring the paper trail of reported loading when it delicensed end users.[5] The absence of any public or private enforcement mechanisms ensuring the accuracy of reported mobile loading gives licensees the ability to inflate counts through a practice commonly known as "paper loading." Such licensees have an incentive to inflate loading counts on frequencies where exclusivity currently is available, or even on shared use frequencies, where a high loading count would discourage coordination of additional users.

A historical pattern of certain types of abuses, combined with the present ability and incentive to engage in those same abuses, certainly should not serve as the basis for awarding or withholding valuable government benefits. Rather, it has required remedial action in other telecommunications contexts.

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[5] Report and Order 7 FCC Rcd. 5558 (1992) (PR Dkt No. 92-79, Amendment of Part 90 of the Commission's Rules to Eliminate Separate Licensing of End Users of Specialized Mobile Radio Systems); Report and Order 7 FCC Rcd. 6344 (1992) (PR Dkt No. 92-78, Amendment of Part 90 of the Commission's Rules Pertaining to End User and Mobile Licensing Information).

See, e.g., United States v. A.T. & T., 552 F.Supp. 131 (D.C.

transmit with equal efficiency. Finally, where AAA auto clubs with significant public safety responsibilities are placed in competition for spectrum allocation with industrial or transportation users, it also is assumed that all mobiles transmit messages of equal importance under criteria established by the Communications Act.

The AAA auto clubs are more active and efficient spectrum users than suggested by simple mobile counts. For example, a tow truck continuously operating, and sending and receiving dispatch transmissions for fifteen to twenty hours a day would more actively use the spectrum than a fleet of five construction trucks commuting to job sites in the morning, remaining stationary at the sites all day, and returning to the garage in the evening. However, even though the tow truck operation makes better use of allocated spectrum, exclusivity would more readily be awarded to the construction company under the Commission's proposed rules.

The AAA auto clubs in bad weather periods especially respond to very high volumes of calls from member motorists and public safety agencies, resulting in high volumes of

calls in 1992. Approximately 97% of these incoming roadside assistance calls resulted in radio transmissions dispatching emergency assistance. Thus, Auto Club of Southern California dispatched to an average of 332 roadside emergency situations per hour during calendar year 1992. Similarly, California State Automobile Association dispatched to an average of 258 requests for assistance per hour and AAA Florida/Louisiana/Mississippi made an average of 221 separate dispatches per hour of 1992. Each separate dispatch requires two, three or more discrete radio transmissions, depending on the nature of assistance required. Therefore, the above hourly averages should be tripled to arrive at realistic estimates of AAA transmission volumes, during normal or average operating period. AAA auto clubs make very active use of their assigned frequencies, particularly in bad weather periods when the public is most in need of emergency road service.

Thus, simple loading count fails to account for the dramatic upswings in call volume (and resulting upswings in dispatch transmissions) commonly experienced by AAA auto clubs. During commonly recurring weather conditions such as thunderstorms, incoming call volume is triple the ordinary volume. For example, the second day of last winter's east coast snowstorm, the toll-free AAA "SUPERNUMBER" received more than 9,000 calls, which is approximately triple the usual

volume of more than 3,000 calls per day.[6] Again, simple mobile loading counts cannot reflect heavy spectrum use from

AAA strongly urges the Commission to adopt the proposed public safety exception, and to define those radio operations eligible for this exception so as to include Automobile Emergency Radio Service operations. Such exception is vital to ensure that safety related operations such as emergency road services are not deprived of available channels by less important uses of radio.

VIII. TRANSITION TO 12.5 kHz BANDWIDTH

The AAA supports the proposed transition to an occupied

goals within the time frame mandated. This approach is similar to that of an aggressive businessman who sets high sights, and pushes the organization to achieve the goals.

However, this approach, when utilized by a regulatory agency, may disrupt orderly migration. Questions quickly arise about the mandated effect on long range capital spending programs of public and private entities, which often are set for several years in advance. By moving faster than regular capital spending cycles, and technological development, the Commission's rules may prove to be a disruptive force, rather than the stabilizing influence desired. The California State Automobile Association projects stranded investment in the range of $3,000,000 to $5,000,000.

The Commission should let the market place lead the way in deciding which technologies are appropriate, and how quickly products will be introduced. Evaluation of the state of technological development, and cost of conversion are two key components in market assessment. There appears to be a consensus that existing technology would support introduction

bandwidth of 10 kHz. The Commission should recognize the total cost involved and treat the conversion to 12.5 kHz bandwidth as a required equipment replacement step, rather than the simple "screwdriver adjustment" previously envisioned by preliminary comments. Therefore, consistent with the

goal, the Commission has successfully planted the seeds of change, and should await the appearance of technological fruits before mandating 6.25 kHz bandwidths.

The AAA accordingly urges the Commission to adopt a deadline no earlier than 2004 for migration to 10 kHz occupied channel, and to revisit the 6.25 kHz bandwidth goal when technology further develops. A mandatory 6.25 kHz spacing standard for UHF operations will be prudent only after evidence on the record shows that this transition is technically and economically feasible.

CONCLUSION

As discussed above, AAA supports many aspects of the proposed Part 88 rewrite, but has serious concerns about other aspects of the Commission's proposal. Of particular significance to the AAA is that channels continue to be reserved for emergency road service activities, or in the alternative that the Commission reclassify such radio use as being within the Public Safety Radio Service. Most major cities, including Washington, D.C., have only a few main arteries for travel to and from the central city. Any congestion on those few arteries can cast severe economic consequences in motorist lost time, while posing direct threats to the safety of life and property. The AAA's unparalleled road-clearing resources should therefore have the highest priority of radio transmissions authorized, through

exclusive channel assignments or inclusion in the Public Safety Radio Service.

WHEREFORE, the AAA respectfully requests that the Commission adopt the foregoing recommendations in PR Dkt. No. 92-235.

Respectfully submitted,

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